



THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

WAGGONER CARR
ATTORNEY GENERAL

June 30, 1966

Honorable Doug Crouch
District Attorney
Tarrant County Courthouse
Fort Worth, Texas

Opinion No. C-716

Re: Whether a person granted probation pursuant to Section 6 of Article 42.12, Vernon's Code of Criminal Procedure (Adult Probation and Parole Law), may be required to pay court costs and the costs of a court appointed attorney as a part of the terms of probation.

Dear Mr. Crouch:

This is in answer to your request for an opinion on the above captioned matter.

Section 6 of Article 42.12 of Vernon's Code of Criminal Procedure, (Adult Probation and Parole Law) provides in part:

" . . . Terms and conditions of probation may include, but shall not be limited to the conditions that the probationer shall:

" . . .

"h. Pay his fine, if one be assessed, and all court costs whether a fine be assessed or not, in one or several sums, and make restitution or reparation in any sum that the court shall determine; and. . ."

Authority granted by the above quoted section of Article 42.12, is sufficiently broad so as to authorize a court to require that court costs be paid as a condition for probation.

Such procedure has been, in effect, approved by the Supreme Court of the United States in Rinaldi v. Yeager, U.S. _____ (decided May 31, 1966). There is no constitutional objection to taxing court costs against a probationer since all convicted defendants are likewise liable for all court costs assessed against them as provided in Vernon's Code of Criminal Procedure.

In addition to inquiring into the legality of requiring such payment you have inquired into the mechanics of collecting and disbursing the same. The legislature having set forth no particular rule as to this procedure we believe that this is a matter for each jurisdiction to handle in such a manner as is deemed practical in the light of local conditions.

In connection herewith, your attention is invited to Kamisar and Choper, The Right to Counsel in Minnesota: Some Field Findings and Legal-Policy Observation, 48 Minn. L. Rev. 1, 23-24, indicating that an agreement for weekly or periodic payment of installments would be acceptable and customary.

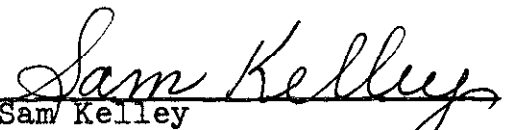
Your question relating to payment of costs of a court appointed attorney by a person placed on probation, has been answered previously in our Opinion No. C-654, a copy of which is enclosed herewith.

S U M M A R Y

A person granted probation pursuant to Section 6 of Article 42.12 Vernon's Code of Criminal Procedure, (Adult Probation and Parole Law) may be required to pay court costs as a part of the terms of probation.

Yours very truly,

WAGGONER CARR
Attorney General of Texas

By 
Sam Kelley
Assistant Attorney General

SK/lh

APPROVED:

OPINION COMMITTEE:

W. V. Geppert, Chairman
Lonny Zwiener
John Banks
Gilbert Pena

APPROVED FOR THE ATTORNEY GENERAL:

By: T. B. Wright